

In the United States Court of Federal Claims

No. 16-174

Filed: May 5, 2016

SIGMATECH, INC.,

*

*

Plaintiff,

*

v.

*

*

*

THE UNITED STATES,

*

*

*

Defendant.

*

Rule 37(b)(2)(C) of the Rules of the
United States Court of Federal
Claims (Sanctions For Not
Obeying A Discovery Order).

Roderic G. Steakley, Sirote & Permutt, P.C., Huntsville, Alabama, Counsel for the Plaintiff.

Kara Marie Westercamp, United States Department of Justice, Civil Division, Washington, D.C., Counsel for the Government.

MEMORANDUM OPINION AND FINAL ORDER

BRADEN, *Judge*.

On April 8, 2016, Counsel for the Government filed a Motion Seeking Leave To Correct The Administrative Record more than 55 days after it was due. ECF No. 33. On April 12, 2016, the court convened a telephone conference, wherein it was revealed that the correction was necessitated, because of the failure of the United States Department of the Army, Army Contracting Command – Aberdeen Proving Ground (“Agency”) to submit complete spreadsheets and other documents that the Agency considered in issuing the Solicitation. On April 19, 2016, the court issued a Memorandum Opinion And Order stating that “the United States Army should be charged with the sanction of paying for Plaintiff’s attorneys’ fees and costs to prepare briefs that were based on an incomplete Administrative Record.” ECF No. 41, at 1.

On April 20, 2016, the Government filed a Notice Of Corrective Action, cancelling the entire Solicitation. ECF No. 42, at 1. On April 22, 2016, Plaintiff filed an Amended Attorney Fee Application with four Exhibits attached thereto, requesting a total of \$77,763.65 in attorneys’ fees. ECF No. 45-1, at 1. On April 28, 2016, the Government filed Objections To Plaintiff’s Amended Attorney Fee Application, requesting that the court reduce the attorneys’ fees award by \$22,049, because that amount represented fees unrelated to reviewing or drafting briefs based on the incomplete Administrative Record. On May 3, 2016, Plaintiff filed a Response.

The court agrees with the Government's analysis of Plaintiff's fee request and awards Plaintiff \$55,714.65 in attorneys' fees. *See* Rule 37(b)(2)(C) of the Rules of the United States Court of Federal Claims ("[T]he court must order the disobedient party, the attorney advising that party, or both to pay the reasonable expenses, including attorney's fees[.]"). This sanction should be paid by the Agency not the Judgment Fund.

In addition, pursuant to the May 5, 2016 Joint Stipulation Of Dismissal, this case is dismissed.

The Clerk of the Court is directed to enter judgment accordingly.

IT IS SO ORDERED.

s/ Susan G. Braden
SUSAN G. BRADEN
Judge